

### **REMARKS**

The undersigned thanks Examiner Oh for the telephonic interview held on January 23, 2008 to discuss the pending Office Action. The requirement to cancel the non-elected subject matter was discussed. In particular, the undersigned requested clarification about what constitutes “non-elected subject matter” in the present case. This Amendment was prepared in accordance with the guidance provided during that discussion.

The Applicants acknowledge the finality of the restriction requirement. As such, claims 1, 2, 11, and 12 have been amended, and claim 10 canceled, to reflect only the elected subject matter, *i.e.*, compounds of formula I having pyridinyl as heterocyclic substituents. The Applicants reserve the right to pursue the non-elected subject matter in divisional or continuing applications. Claim 22 has been rewritten into independent form. Claim 33 has been amended, without prejudice, to delete the term “inflammation.” Previously withdrawn claims 36-63 have been canceled. The Applicants reserve the right to prosecute the subject matter of the canceled claims in a divisional or continuing application. No new matter has been added.

Claims 1-35 and 64-71 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly non-enabling for solvates and hydrates of the claimed compounds. The Applicants assert that one skilled in the art would be able to make solvates and/or hydrates of the claimed compounds without undue experimentation. Nevertheless, in order to advance the pending case to allowance, reference to solvates and hydrates has been deleted from the claims. The rejection is thereby considered moot.

Claim 33 stands rejected under 35 U.S.C. § 112, first paragraph, as non-enabling for treating any inflammation. While the Applicants do not necessarily agree, “inflammation” has been deleted from claim 33. The rejection is thus considered moot.

Claims 1 and 2 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite with regard to the use of the term “contains.” The Applicants assert that the term is not vague and that one skilled in the art would readily understand the meaning of the term in the context

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of the claimed invention. Nevertheless, in order to advance the case to allowance, “contains” has been replaced by “has.” The rejection is considered moot.

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The Applicants represent that the foregoing constitutes a *bona fide* response to the outstanding issues associated with the pending application. The claims are considered in condition for allowance. An early Notice of Allowance is earnestly solicited.

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